

# LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

May 9, 2016

## AGENDA

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### CALL TO ORDER

Business Meeting, Monday, May 9, 2016, 8:30 a.m., 630 Camp Street, New Orleans, 5<sup>th</sup> Floor.

Personal Appearance, Monday, May 9, 2016, 1:00 p.m.

Formal Administrative Hearing, Monday, May 9, 2016, 3:00 p.m.<sup>1</sup>

### PUBLIC SESSION

#### 1. MINUTES/PRIOR MEETINGS/CONFERENCES

Approval of minutes of last meeting.

Status report on action items of prior Board meetings.

Report on assignments to counsel.

#### 2. RULINGS AND ADVISORY OPINIONS

Use of Nitrous Oxide in Physician's Office; Follow-up.

Athletic Trainer; Scope of Practice; Ability to Work in Physical Therapy Setting in a Capacity Other than AT.

#### 3. COMMUNICATIONS AND INFORMATION

Board Certification; Follow-up Information.

#### 4. GENERAL ADMINISTRATIVE MATTERS

Financial Matters.

President's Report.

Executive Director's Report.

Payment of Outstanding Invoice.

#### 5. RULES AND REGULATIONS

a. Final – **Physicians: Complaints and Investigations:** During its October 2015 meeting, the Board considered a draft containing various changes (Sections 8315, 9707, 9709, and 9711) to its proposed rules on Complaints and Investigations of physicians, which were *Noticed for Intent* to Adopt in the September 2015 edition of the *Louisiana Register*. Following review and discussion the Board voted to proceed with a new rule effort and provide *Notice of Intent* to adopt the changes in the *Register*. Said notice appeared in the December 2015 *Louisiana Register*. No comments or a request for a public hearing were received during the comment period. The amendments became effective upon publication in the April 20, 2016 edition of the *Louisiana Register*.

b **Rules/Amendments: Noticed for Intent: Clinical Laboratory Personnel:** At the request of its Clinical Laboratory Personnel ("CLP") Advisory Committee, the Board agreed to undertake a rulemaking effort to amend its CLP Rules to reduce the term of a temporary permit from six months to three months. The Board directed that a draft be prepared and presented for review and approval. In conformity with the Board's direction, a draft was presented for initial review and discussion at its April 2015 meeting. Following further discussion at its May 2015 meeting, the Board voted to provide *Notice of Intent* to adopt the rule amendments. Said *Notice of Intent* appeared in the February 2016 edition of the *Louisiana Register*. Neither comments nor a request for a public hearing were received during the comment period. It is anticipated that the amendments will be promulgated in the same form as previously noticed and become effective upon publication in the May 20, 2016 edition of the *Louisiana Register*.  
**Midwifery:** The Board considered amendments to the existing rules governing licensed midwife practitioners incorporating changes pursuant to the Louisiana

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<sup>1</sup> This item shall be considered in Executive Session.

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Midwifery Practice Act during the 2012 session of the Legislature, updating the rules generally and rearranging sections for ease of reference. The Board reviewed and discussed changes at its January and February 2015 meetings. At its April 2015 meeting, the Board considered a suggestion that a licensed midwife be permitted to continue providing prenatal care to a woman with one prior cesarean section provided arrangements have been made with a physician, documented in the midwife's chart for the planned hospital delivery at the onset of labor. The Louisiana Midwives Association and other interested stakeholders provided input on the suggested changes. A revised draft was presented for the Board's consideration at its January 2016 meeting and following review and discussion, the Board voted to provide a *Notice of Intent* to adopt the amendments. Such Notice appeared in the April 2016 edition of the *Louisiana Register*.

c. **Rules/Amendments under Development:** The following rules are under consideration by the Board. **Physicians Compounding Medication:** At its December 2014 and January 2015 meetings, the Board reviewed Emergency Rules adopted by the Louisiana State Board of Pharmacy to reflect certain changes in federal law concerning compounded medication. Following review and discussion, the Board elected to undertake a rulemaking effort as to physicians who compound medication in order to insure consistency with federal and state law and regulations. A draft will be presented for initial review and consideration in due course. **Physician Advertising; Board Certification:** At its March 2015 meeting, the Board determined to undertake a rulemaking effort to establish a process for its approval of certifying boards, alternative to the ABMS and AOA, for purposes of physician advertising of *Board Certification*. The Board directed that a draft be prepared and presented for review and approval. In conformity with the Board's direction, a draft was presented for initial review and discussion at its April 2015 meeting. Following further discussion at its May 2015 meeting, the Board voted to provide *Notice of Intent* to adopt the amendments. An additional wording change was discussed at the September 2015 meeting and pre-notice input was received from interest parties at that time. Following review and discussion, the Board elected to defer action on this matter for at least another month to allow further consideration and input by other stakeholders. The additional information requested from interested stakeholders by the Board on certification, training and accreditation has not been received. In line with the Board's direction at its March 2016 meeting, a letter was sent to interested stakeholders requesting that they submit any additional information they may want to be considered in time for the May 2016 agenda. The additional information received is presented for the Board's consideration. **Athletic Trainers:** The Board's Athletic Trainer Advisory Committee worked on amendments to the athletic trainer rules to conform them to the 2014 amendments to the Athletic Trainer Practice Act. The Committee's draft was received and has been reviewed by staff. A revised draft has been submitted to the Advisory Committee for any final input. The Committee has offered additional changes which is being reviewed. As soon as they have been incorporated into the current draft, it will be presented to the Board for consideration. **Podiatry; Eligibility for Advanced Practice:** The Podiatry Advisory Committee ("PAC") has requested amendments to the Board's Podiatry Rules to remove the requirements for board certification or eligibility as to an applicant for advanced practice who has completed a three year podiatry medical surgical residency training (PM&S 36) program. The draft was presented during the May 2015 meeting for initial review and discussion and was revised per further input from the Podiatry Advisory Committee. Following discussion and consideration, the Board approved the draft at its August 2015 meeting and voted to provide *Notice of Intent* to adopt the amendments in the *Louisiana Register*. It is

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anticipated that said notice will appear in the June 2016 edition of the *Louisiana Register*. **Podiatry; Histories and Physicals:** During the December 2015 meeting, the Board heard the request of the Louisiana Podiatric Medical Association ("LPMA") and the Board's Podiatry Advisory Committee ("PAC") for a rule-making effort or advisory opinion authorizing the performance of histories and physicals ("H&Ps") by podiatrists in Louisiana. Following discussion, the Board asked the Association and PAC to submit their suggestions to staff for its preparation of a draft rule addressing the topic for its further consideration. Following the receipt of suggestions from the LPMA and the input of other stakeholders and staff, the Board reviewed a draft presented for initial consideration. The President of the Louisiana Podiatry Association and a communication on behalf of the Louisiana Orthopaedic Association were considered during the April 2016 meeting. Following further discussion, the matter was deferred. **Physician Assistants:** Act 453 (SB 115, Sen. Mills) modified the law governing physician assistants (Pas) in a number of ways. A rulemaking effort will be needed to conform the Board's rules to the changes. In the interim, the law as amended by Act 453 controls any disparity with the rules. In the interim, notification is being posted on the Board's web page as to how a PA may apply for Schedule II controlled substances that have been delegated by a SP. The Board has solicited the input of its PA Advisory Committee and the Louisiana Academy of Physician Assistants respecting the amendments made necessary by virtue of Act 453. **Physicians; Training:** During its December 2015 meeting, the Board received a further report from staff outlining the review and analysis of data which correlates a decrease in disciplinary action with an increase in post-graduate year medical education. It also discussed the PGY requirements of other state medical boards and considered the current requirements in Louisiana for both US and International Medical Graduates. Finally, it considered staff's recommendation that an increase in PGY training should result in a decrease in the amount of discipline. Following lengthy discussion and consideration, the Board asked that a draft rule be prepared for its review that would prospectively require physician applicants to complete an ACGME residency as a prerequisite to medical licensure. An initial draft is presented for review and consideration for review and consideration at its April 2016 meeting. **Physicians; Medications Used in the Treatment of Obesity:** During its March 2016 meeting the Board requested amendments to its obesity rules that would permit the prescribing of the individual ingredients of any non-controlling drug approved by the USFDA in the treatment of exogenous obesity. An initial draft of amendments was presented for review and discussion at its April 2016 and on the motion of Dr. Dawson, duly seconded and passed by unanimous voice vote, the Board voted to provide *Notice of Intent* to adopt the rule amendments in the *Louisiana Register*.

## EXECUTIVE SESSION

1. **MALPRACTICE COMMITTEE REPORT**  
Professional liability reports.
2. **REPORTS INVESTIGATIONS/ADJUDICATIONS/LITIGATION**  
Personal appearance schedule.  
Recommendation to Commence Investigations.  
Investigation reports.  
Other Investigative Matter.
3. **LITIGATION**

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- Reports on pending appeals/suits/petitions.
- 4. ADJUDICATION REPORT**
- 5. GENERAL DISCIPLINARY MATTERS**  
Review of request for early reinstatement, off probation.  
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- 6. LICENSURE AND CERTIFICATION**  
Clinical Laboratory Personnel, non-routine applicants.  
Occupational Therapy Assistant, non-routine applicant.  
Podiatry, Advanced Practice; Conservative Treatment, applicant.  
**Graduates of US/Canadian Medical Schools**  
Non-routine applicants.  
**Graduates of Foreign/International Medical Schools**  
Review of request for waiver of licensure requirements; Follow-up.  
**Miscellaneous Licensure Matters**  
Occupational Therapy Assistant; Waiver of Examination Attempt.
- 7. NEXT MEETING**  
Next meeting of the Board – June 13, 14, 2016.